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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,056	02/18/2004	Rob Worsham	12013/50101	5746
23838	7590	04/21/2006	EXAMINER	
KENYON & KENYON LLP 1500 K STREET N.W. SUITE 700 WASHINGTON, DC 20005			MICHENER, JENNIFER KOLB	
			ART UNIT	PAPER NUMBER
			1762	

DATE MAILED: 04/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

4

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/782,056

Applicant(s)

WORSHAM, ROB

Examiner

Jennifer K. Michener

Art Unit

1762

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 20 March 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: \_\_\_\_\_.


Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

  
Jennifer K. Michener  
Primary Examiner  
Art Unit: 1762

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues that Examiner's Official Notice is unsubstantiated. Applicant further argues that Official Notice should be rare when used After Final because Applicant should be given an opportunity to traverse the Official Notice prior to Appeal. Examiner notes that Official Notice has not been taken. Examiner has rejected the claims as obvious under various 103(a) rejections. Furthermore, the new or modified rejections made in the Final Rejection were only necessitated due to Applicant's claim amendments. Applicant further argues that Wu does not disclose a holder for moving stents into and out of the chamber. Examiner notes that Wu's "substrate is placed directly in front of the target". Some "stent holder" must accomplish this task, as claimed. While Wu teaches simultaneous coating of substrates in a large-scale operation, a distinction is made for quick production of a coated substrate, alone, therefore Examiner maintains that it would have been obvious, depending on the number of products desired in a smaller-scale operation to use the quick one-at-a-time production method, taught by Wu. As outlined in the previous office action, Wu teaches that "stents" (plural) require coatings, so it would have been obvious to coat them in Wu's one-at-a-time embodiment. Applicant argues that that Talton fails to teach a stent holder and that Fig. 3 of Talton shows substrates all mounted and coated at the same time, not continuously. Examiner notes that Talton uses a "positioner" for placing the stent in the chamber, acting as Applicant's "stent holder". Also Figure 3 is shown as an alternative embodiment. All other Figures and embodiments are directed to coating one stent at a time. Talton teaches that his method is a "continuous production process" performed at atmospheric pressure. He states that atmospheric pressures allows for continuous processing of uncoated substrates being transported into a coating chamber and coated. Continuously cycling of stents into the chamber at atmospheric pressure avoids the problems associated with altered pressures, such as requiring a closed system.